

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Campos

February 22, 2012

An act to amend Section 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Campos. Land use: general plan: healthy food element.

The Planning and Zoning Law requires that a city or county general plan consist of various elements, including, among other things, *a land use, circulation, housing, open space, conservation, and safety elements, which are required to meet specified requirements* *element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land, as specified.*

~~This bill would require that the general plan also include a healthy food element that meets certain requirements. By imposing additional duties on local officials, this bill would constitute a state-mandated local program~~ *additionally require the land use element to identify food deserts, as defined, within the city or county and consider zoning changes to mitigate those areas currently designated as food deserts.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that *in certain*
2 *parts of California* there exists a-severe shortage of fresh, healthy,
3 and affordable food, especially for persons and families of low
4 and moderate income, and that there is an immediate need to
5 encourage the access of healthy food for persons residing in
6 California, not only through the provision of grocery stores, farmers
7 markets, urban agriculture, mobile vendors, or other methods, but
8 also through changes in law designed to do all of the following:

9 (a) Expedite the local and state residential development process
10 locating new or rehabilitated grocery stores in food deserts.

11 (b) Ensure that local governments zone sufficient land to include
12 grocery stores and urban agriculture.

13 (c) Ensure that local governments make a diligent effort through
14 the administration of land use and development controls and the
15 provision of regulatory concessions and incentives to significantly
16 reduce barriers to grocery store development and thereby facilitate
17 the development of affordable and accessible food.

18 SEC. 2. Section 65302 of the Government Code is amended
19 to read:

20 65302. The general plan shall consist of a statement of
21 development policies and shall include a diagram or diagrams and
22 text setting forth objectives, principles, standards, and plan
23 proposals. The plan shall include the following elements:

24 (a) A land use element that designates the proposed general
25 distribution and general location and extent of the uses of the land
26 for housing, business, industry, open space, including agriculture,
27 natural resources, recreation, and enjoyment of scenic beauty,
28 education, public buildings and grounds, solid and liquid waste

1 disposal facilities, and other categories of public and private uses
2 of land. The location and designation of the extent of the uses of
3 the land for public and private uses shall consider the identification
4 of land and natural resources pursuant to paragraph (3) of
5 subdivision (d). The land use element shall include a statement of
6 the standards of population density and building intensity
7 recommended for the various districts and other territory covered
8 by the plan. The land use element shall identify and annually
9 review those areas covered by the plan that are subject to flooding
10 identified by flood plain mapping prepared by the Federal
11 Emergency Management Agency (FEMA) or the Department of
12 Water Resources. The land use element shall also do ~~both~~ *all* of
13 the following:

14 (1) Designate in a land use category that provides for timber
15 production those parcels of real property zoned for timberland
16 production pursuant to the California Timberland Productivity Act
17 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
18 of Division 1 of Title 5).

19 (2) Consider the impact of new growth on military readiness
20 activities carried out on military bases, installations, and operating
21 and training areas, when proposing zoning ordinances or
22 designating land uses covered by the general plan for land, or other
23 territory adjacent to military facilities, or underlying designated
24 military aviation routes and airspace.

25 (A) In determining the impact of new growth on military
26 readiness activities, information provided by military facilities
27 shall be considered. Cities and counties shall address military
28 impacts based on information from the military and other sources.

29 (B) The following definitions govern this paragraph:

30 (i) “Military readiness activities” mean all of the following:

31 (I) Training, support, and operations that prepare the men and
32 women of the military for combat.

33 (II) Operation, maintenance, and security of any military
34 installation.

35 (III) Testing of military equipment, vehicles, weapons, and
36 sensors for proper operation or suitability for combat use.

37 (ii) “Military installation” means a base, camp, post, station,
38 yard, center, homeport facility for any ship, or other activity under
39 the jurisdiction of the United States Department of Defense as

1 defined in paragraph (1) of subsection (e) of Section 2687 of Title
2 10 of the United States Code.

3 (3) (A) *At the next update of the land use element following the*
4 *effective date of the act that added this paragraph, identify food*
5 *deserts within the city or county and consider zoning changes to*
6 *mitigate those areas currently designated as food deserts.*

7 (B) *For purposes of this paragraph, the following terms have*
8 *the following meanings:*

9 (i) *“Food desert” means a low-income census tract where at*
10 *least 500 people or at least 33 percent, whichever is less, of the*
11 *population within the census tract reside more than two miles from*
12 *a supermarket or large grocery store.*

13 (ii) *“Low-income census tract” means any census tract where*
14 *either of the following apply:*

15 (I) *The poverty rate for that census tract is at least 20 percent.*

16 (II) *For census tracts not located within a metropolitan area,*
17 *the median family income for the tract does not exceed 80 percent*
18 *of statewide median family income, or for tracts located within a*
19 *metropolitan area, the median family income for the tract does*
20 *not exceed 80 percent of the greater of statewide median family*
21 *income or the metropolitan area median family income.*

22 (iii) *“Supermarket” means a retailer that has annual sales of*
23 *at least two million dollars (\$2,000,000) and contains all the major*
24 *food departments found in a traditional supermarket, including,*
25 *but not limited to, fresh meat and poultry, produce, dairy, dry and*
26 *packaged foods, and frozen foods.*

27 (b) (1) A circulation element consisting of the general location
28 and extent of existing and proposed major thoroughfares,
29 transportation routes, terminals, any military airports and ports,
30 and other local public utilities and facilities, all correlated with the
31 land use element of the plan.

32 (2) (A) Commencing January 1, 2011, upon any substantive
33 revision of the circulation element, the legislative body shall
34 modify the circulation element to plan for a balanced, multimodal
35 transportation network that meets the needs of all users of streets,
36 roads, and highways for safe and convenient travel in a manner
37 that is suitable to the rural, suburban, or urban context of the
38 general plan.

39 (B) For purposes of this paragraph, “users of streets, roads, and
40 highways” means bicyclists, children, persons with disabilities,

1 motorists, movers of commercial goods, pedestrians, users of public
2 transportation, and seniors.

3 (c) A housing element as provided in Article 10.6 (commencing
4 with Section 65580).

5 (d) (1) A conservation element for the conservation,
6 development, and utilization of natural resources including water
7 and its hydraulic force, forests, soils, rivers and other waters,
8 harbors, fisheries, wildlife, minerals, and other natural resources.

9 The conservation element shall consider the effect of development
10 within the jurisdiction, as described in the land use element, on
11 natural resources located on public lands, including military
12 installations. That portion of the conservation element including
13 waters shall be developed in coordination with any countywide
14 water agency and with all district and city agencies, including
15 flood management, water conservation, or groundwater agencies
16 that have developed, served, controlled, managed, or conserved
17 water of any type for any purpose in the county or city for which
18 the plan is prepared. Coordination shall include the discussion and
19 evaluation of any water supply and demand information described
20 in Section 65352.5, if that information has been submitted by the
21 water agency to the city or county.

22 (2) The conservation element may also cover all of the
23 following:

24 (A) The reclamation of land and waters.

25 (B) Prevention and control of the pollution of streams and other
26 waters.

27 (C) Regulation of the use of land in stream channels and other
28 areas required for the accomplishment of the conservation plan.

29 (D) Prevention, control, and correction of the erosion of soils,
30 beaches, and shores.

31 (E) Protection of watersheds.

32 (F) The location, quantity and quality of the rock, sand and
33 gravel resources.

34 (3) Upon the next revision of the housing element on or after
35 January 1, 2009, the conservation element shall identify rivers,
36 creeks, streams, flood corridors, riparian habitats, and land that
37 may accommodate floodwater for purposes of groundwater
38 recharge and stormwater management.

39 (e) An open-space element as provided in Article 10.5
40 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding;

1 and wild land and urban fires. The safety element shall include
2 mapping of known seismic and other geologic hazards. It shall
3 also address evacuation routes, military installations, peakload
4 water supply requirements, and minimum road widths and
5 clearances around structures, as those items relate to identified fire
6 and geologic hazards.

7 (2) The safety element, upon the next revision of the housing
8 element on or after January 1, 2009, shall also do the following:

9 (A) Identify information regarding flood hazards, including,
10 but not limited to, the following:

11 (i) Flood hazard zones. As used in this subdivision, “flood
12 hazard zone” means an area subject to flooding that is delineated
13 as either a special hazard area or an area of moderate or minimal
14 hazard on an official flood insurance rate map issued by the Federal
15 Emergency Management Agency. The identification of a flood
16 hazard zone does not imply that areas outside the flood hazard
17 zones or uses permitted within flood hazard zones will be free
18 from flooding or flood damage.

19 (ii) National Flood Insurance Program maps published by
20 FEMA.

21 (iii) Information about flood hazards that is available from the
22 United States Army Corps of Engineers.

23 (iv) Designated floodway maps that are available from the
24 Central Valley Flood Protection Board.

25 (v) Dam failure inundation maps prepared pursuant to Section
26 8589.5 that are available from the California Emergency
27 Management Agency.

28 (vi) Awareness Floodplain Mapping Program maps and 200-year
29 flood plain maps that are or may be available from, or accepted
30 by, the Department of Water Resources.

31 (vii) Maps of levee protection zones.

32 (viii) Areas subject to inundation in the event of the failure of
33 project or nonproject levees or floodwalls.

34 (ix) Historical data on flooding, including locally prepared maps
35 of areas that are subject to flooding, areas that are vulnerable to
36 flooding after wildfires, and sites that have been repeatedly
37 damaged by flooding.

38 (x) Existing and planned development in flood hazard zones,
39 including structures, roads, utilities, and essential public facilities.

1 (xi) Local, state, and federal agencies with responsibility for
2 flood protection, including special districts and local offices of
3 emergency services.

4 (B) Establish a set of comprehensive goals, policies, and
5 objectives based on the information identified pursuant to
6 subparagraph (A), for the protection of the community from the
7 unreasonable risks of flooding, including, but not limited to:

8 (i) Avoiding or minimizing the risks of flooding to new
9 development.

10 (ii) Evaluating whether new development should be located in
11 flood hazard zones, and identifying construction methods or other
12 methods to minimize damage if new development is located in
13 flood hazard zones.

14 (iii) Maintaining the structural and operational integrity of
15 essential public facilities during flooding.

16 (iv) Locating, when feasible, new essential public facilities
17 outside of flood hazard zones, including hospitals and health care
18 facilities, emergency shelters, fire stations, emergency command
19 centers, and emergency communications facilities or identifying
20 construction methods or other methods to minimize damage if
21 these facilities are located in flood hazard zones.

22 (v) Establishing cooperative working relationships among public
23 agencies with responsibility for flood protection.

24 (C) Establish a set of feasible implementation measures designed
25 to carry out the goals, policies, and objectives established pursuant
26 to subparagraph (B).

27 (3) After the initial revision of the safety element pursuant to
28 paragraph (2), upon each revision of the housing element, the
29 planning agency shall review and, if necessary, revise the safety
30 element to identify new information that was not available during
31 the previous revision of the safety element.

32 (4) Cities and counties that have flood plain management
33 ordinances that have been approved by FEMA that substantially
34 comply with this section, or have substantially equivalent
35 provisions to this subdivision in their general plans, may use that
36 information in the safety element to comply with this subdivision,
37 and shall summarize and incorporate by reference into the safety
38 element the other general plan provisions or the flood plain
39 ordinance, specifically showing how each requirement of this
40 subdivision has been met.

1 (5) Prior to the periodic review of its general plan and prior to
2 preparing or revising its safety element, each city and county shall
3 consult the California Geological Survey of the Department of
4 Conservation, the Central Valley Flood Protection Board, if the
5 city or county is located within the boundaries of the Sacramento
6 and San Joaquin Drainage District, as set forth in Section 8501 of
7 the Water Code, and the California Emergency Management
8 Agency for the purpose of including information known by and
9 available to the department, the agency, and the board required by
10 this subdivision.

11 (6) To the extent that a county's safety element is sufficiently
12 detailed and contains appropriate policies and programs for
13 adoption by a city, a city may adopt that portion of the county's
14 safety element that pertains to the city's planning area in
15 satisfaction of the requirement imposed by this subdivision.

16 ~~(h) (1) A healthy foods element to improve the health of~~
17 ~~Californians by increasing access to healthy affordable food. The~~
18 ~~healthy food element shall include a plan to increase access to~~
19 ~~healthy affordable food within the jurisdiction of that city and~~
20 ~~county. For purposes of this section, access to healthy food shall~~
21 ~~include, but is not limited to, all of the following:~~

22 ~~(A) Access to full and discount grocery stores.~~

23 ~~(B) Access to urban farming.~~

24 ~~(C) Access to community or school gardens.~~

25 ~~(D) Access to farmers markets.~~

26 ~~(E) Access to affordable food, including food retail spaces that~~
27 ~~accept CalFresh benefits received under the federal Supplemental~~
28 ~~Nutrition Assistance Program of the federal Food and Nutrition~~
29 ~~Act of 2008 pursuant to Chapter 10 (commencing with Section~~
30 ~~18900) of Part 6 of Division 9 of the Welfare and Institutions Code,~~
31 ~~or benefits received under the California Special Supplemental~~
32 ~~Food Program for Women, Infants, and Children, as provided for~~
33 ~~in Article 2 (commencing with Section 123275) of Chapter 1 of~~
34 ~~Part 2 of Division 106 of the Health and Safety Code.~~

35 ~~(F) Access to transportation when approving a new grocery~~
36 ~~store, including, but not limited to, bus stops or other mass~~
37 ~~transportation stops near the grocery store, free or low-cost shuttles~~
38 ~~to and from the grocery store, taxi vouchers, and car pool programs.~~

1 ~~(2) When planning for meeting the requirements of the healthy~~
2 ~~food element, a city or county may consider developing incentives~~
3 ~~for new grocery stores that do one or more of the following:~~

4 ~~(A) Incorporate green energy, such as solar refrigerators or solar~~
5 ~~panels.~~

6 ~~(B) Provide community meeting space in the grocery store.~~

7 ~~(C) Conduct nutrition and cooking classes in the grocery store.~~

8 ~~(D) Commit to a certain percentage of fair trade products within~~
9 ~~the grocery store.~~

10 ~~(E) Hire locally.~~

11 ~~(F) Offer composting and environmentally friendly cleaning~~
12 ~~supplies.~~

13 ~~(G) Offer nutritional label tags on the shelves.~~

14 ~~SEC. 3. If the Commission on State Mandates determines that~~
15 ~~this act contains costs mandated by the state, reimbursement to~~
16 ~~local agencies and school districts for those costs shall be made~~
17 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
18 ~~4 of Title 2 of the Government Code.~~